

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TELE-CONS, INC. and
MICHAEL MOISIN

Plaintiffs,

v.

HARMONY LIGHTING, INC.,
LIGHTS OF AMERICA, INC.,
FEIT ELECTRIC COMPANY, INC.
TECHNICAL CONSUMER PRODUCTS, INC.,
S K AMERICA, INC. d/b/a MAXLITE,
WESTINGHOUSE LIGHTING CORPORATION,
GREENLITE LIGHTING CORP.,
HELIX LIGHTING CORP.,
BULBRITE INDUSTRIES, INC.,
AURIO LIGHTING, INC.,
AMERICAN TOP LIGHTING, INC.,
PHILIPS LIGHTING COMPANY, and
PHILIPS ELECTRONICS NORTH AMERICA
CORPORATION.

Defendants.

Civ. A. No. 03-11250 RCL

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiffs Tele-Cons, Inc. and Michael Moisin ("Tele-Cons" or "Plaintiffs") as and for their Complaint against Defendants Harmony Lighting, Inc., Lights of America, Inc., Feit Electric Company, Inc., Technical Consumer Products, Inc., S K America, Inc. d/b/a MaxLite, Westinghouse Lighting Corporation, Greenlite Lighting Corp., Helix Lighting Corp., Bulbrite Industries, Inc., Aurio Lighting, Inc., American Top Lighting, Inc., Philips Lighting Company, and Philips Electronics North America Corporation (collectively "Defendants") allege as follows:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States, including 35 U.S.C. § 271 et seq. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), (c) and §1400(b).

PARTIES

3. Plaintiff Tele-Cons, Inc. is an Illinois corporation having a principal place of business at 8 Druce Street, Brookline, Massachusetts 02445.

4. Plaintiff Michael Moisin is an individual residing at 8 Druce Street, Brookline, Massachusetts 02445.

5. Defendant Harmony Lighting, Inc. is a Massachusetts corporation having a principal place of business at 35 Pond Park Road, Hingham, MA 02043, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

6. Defendant Lights of America, Inc. is a California corporation having a principal place of business at 611 Reyes Dr., Walnut, California 91789, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

7. Defendant Feit Electric Company, Inc. is a California corporation having a principal place of business at 4901 Gregg Road, Pico Rivera, California 90660, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

8. Defendant Technical Consumer Products, Inc. is a Delaware corporation having a principal place of business at 300 Lena Drive, Aurora, Ohio 44202, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

9. Defendant S K America, Inc. d/b/a MaxLite is a New Jersey corporation having a principal place of business at 19 Chapin Road, Building B, Pine Brook, New Jersey 07058-2005,

and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

10. Defendant Westinghouse Lighting Corporation is a Pennsylvania corporation having a principal place of business at 12401 McNulty Road, Philadelphia, Pennsylvania 19154-1099, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

11. Defendant Greenlite Lighting Corp. is a Canadian corporation having a regular and established place of business at 10 Corporate Park, Suite 100, Irvine, California 92606, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

12. Upon information and belief, defendant Helix Lighting Corp. is a California corporation having a principal place of business at 18552 Sherman Way, Reseda, California 91335, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

13. Defendant Bulbrite Industries, Inc. is a New York corporation having a principal place of business at 145 W. Commercial Avenue, Moonachie, NJ 07074, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

14. Defendant Aurio Lighting, Inc. is a California corporation having a principal place of business at 10507 Valley Boulevard # 858, El Monte California 91731, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

15. Defendant American Top Lighting, Inc. is a California corporation having a principal place of business at 11629 Clarke Street, Suite 201, Arcadia, California 91006, and is doing business and committing acts of patent infringement in this judicial district and elsewhere.

16. Defendant Philips Lighting Company is a company having a principal place of business at 200 Franklin Square Drive, P.O. Box 6800, Somerset, New Jersey 08875-6800, and is doing business and committing acts of patent infringement in this judicial district and elsewhere. Upon information and belief, Defendant Philips Lighting Company is a division of Philips Electronics North America Corporation.

17. Defendant Philips Electronics North America Corporation is a Delaware Corporation having a principal place of business at 1251 Avenue of the Americas, New York, New York 10020-1104, and upon information and belief through Philips Lighting Company, is doing business and committing acts of patent infringement in this judicial district and elsewhere.

COUNT I

(Infringement of U.S. Patent No. 5,821,699)

18. The allegations of paragraphs 1–17 above are incorporated by reference as if fully set forth herein.

19. This claim is made under the provisions of the patent laws of the United States, 35 U.S.C. § 271 et seq.

20. Plaintiffs Tele-Cons, Inc. and Michael Moisin are the owners of U.S. Patent No. 5,821,699 (“the ‘699 patent”), which was duly and legally issued on October 13, 1998 and is entitled “Ballast Circuit for Fluorescent Lamps.”

21. In violation of one or more provisions of 35 U.S.C. § 271, each of the Defendants has infringed, and continues to infringe, one or more of the claims of the ‘699 patent by making, using, selling and/or offering for sale fluorescent lamp and ballast products, including three-way fluorescent lamps and ballasts, in this judicial district and elsewhere.

22. Defendants' acts of infringement have been and are willful.

23. Defendants' acts of infringement have caused and are causing reparable and irreparable damage to Plaintiffs, and Plaintiffs will continue to suffer damage unless Defendants are enjoined.

WHEREFORE, Plaintiffs pray that the Court:

- A. Enter judgment that Defendants have infringed U.S. Patent No. 5,821,699;
- B. Enter judgment that Defendants' acts of patent infringement have been and are willful;
- C. Temporarily, preliminarily and permanently enjoin Defendants, their parents, subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives, and all parties in active concert and/or participation with them, from engaging in the aforesaid unlawful acts of infringement;
- D. Order Defendants to account for and pay to Plaintiffs all damages caused to Plaintiffs by Defendants' unlawful acts;
- E. Award Plaintiffs increased damages and attorney fees pursuant to 35 U.S.C. §§ 284 and 285;
- F. Award Plaintiffs their interest and costs incurred in this action; and
- G. Grant Plaintiffs such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial of all issues triable of right by jury.

**TELE-CONS, INC. and
MICHAEL MOISIN**

Dated: September 25, 2003

By: 

Paul J. Hayes, Esq. (BBO # 227000)

Eugene A. Feher, Esq. (BBO # 550762)

Robert R. Gilman, Esq. (BBO # 645224)

MINTZ, LEVIN, COHN, FERRIS,

GLOVSKY AND POPEO, P.C.

One Financial Center

Boston, MA 02111

(617) 542-6000 (Telephone)

(617) 542-2241 (Facsimile)

Attorneys for Plaintiffs

LIT 1418879v1